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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/502,252 | 10/20/2004 | Eivind Olav Andersen | TS9284 US | 3944 |

7590 03/09/2007
Reece A Scott
Shell Oil Company
Intellectual Property
PO Box 2463
Houston, TX 77252-2463

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| EXAMINER |
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CHOI, LING SIU

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| ART UNIT | PAPER NUMBER |
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1713

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
|--|------------|---------------|
| 3 MONTHS | 03/09/2007 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/502,252

Applicant(s)

ANDERSEN, EIVIND OLAV

Examiner

Ling-Siu Choi

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,7 and 16 is/are rejected.
- 7) ☒ Claim(s) 3-6,8-15 and 17-22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 09/19/2006.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

1. The request filed on 09/19/2006 for a Request for Continued Examination (RCE) under 37 CFR 1.114 based on parent Application No. 10/502,252 is acceptable and a RCE has been established. An action on the RCE follows.

2. This Office Action is in response to the Amendment filed 05/24/2006. Claims 1-22 are now pending, wherein claims 1-20 are drawn to a pigmentable binder composition; claim 21 a synthetic asphalt; claim 22 a synthetic mastic asphalt.

Claim Analysis

3. Summary of claim 1:

| | |
|---|---|
| A pigmentable binder composition comprising | |
| A | a petroleum resin |
| B | a lubricating oil and/or a lubricating oil extract |
| C | 0.05-less than 3 wt % of amide additive of the general formula $R^1\text{-CO-NH-(CH}_2\text{)}_x\text{-NH-CO-R}^2$ |

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office

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action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-2, 7, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Fujii et al. (JP 02-020320).

Fujii et al. disclose a composition comprising a petroleum resin, polypropylene resin, and an aliphatic amide lubricant, wherein the petroleum resin is an aliphatic type petroleum resin, cycloaliphatic type petroleum resin, hydrogenated terpene type resin, or mixtures thereof; the polypropylene resin is a homo-polypropylene, random polypropylene, block polypropylene, or mixture thereof, which reads on the "lubricating oil"; the aliphatic amide lubricant is ethylene bis(stearamide) having a melting point of 142°C to 145°C or methylene bis(stearamide) having a melting point of 138°C to 140°C in an amount of 0.02 - 2.0 wt% (pages 3- 4). Thus, the present claims are anticipated by the disclosure of Fujii et al.

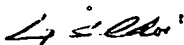
6. Claim 3-6, 8-15, and 17-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ling-Siu Choi whose telephone number is 571-272-1098.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu, can be reach on 571-272-1114.



LING-SUI CHOI
PRIMARY EXAMINER

March 2, 2007